EFFECTIVE COURTROOM PERFORMANCE

FOR INDIANA LAW ENFORCEMENT

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TO THE LAW ENFORCEMENT OFFICER

As a witness / investigator of a crime, your cooperation is essential to make the criminal justice system work. This brochure has been developed by the Clark County Prosecuting Attorney in an effort to lessen your inconvenience and to help you feel more comfortable in the courtroom.

If you have any questions or problems, feel free to contact my office at (812) 285-6264. Our office is open to serve your needs from 8:00 a.m. to 4:30 p.m., Monday through Friday, for telephone calls or walk-in assistance. After hours, contact your dispatcher, who can reach us at home.

CRIMINAL COURT PROCEDURE

A criminal case is begun by the Prosecutor filing an Information, or by a Grand Jury returning an Indictment, against the defendant. Unless the defendant enters into a plea agreement, his guilt or innocence will be determined at a trial on a date set by the trial judge. Unless waived by the defendant, all trials are jury trials.

RECEIVING A SUBPOENA

A subpoena is a court order directing you to be present at the time and place stated. Once you are served with a subpoena, you are obligated to appear. Failure to appear may be understood as contempt of court by the judge, and may result in dismissal of the criminal charges, so it is very important that you inform your prosecutor if you cannot appear as directed. Indiana law makes no provision for reimbursement of expenses to state or local government employees for court appearances at a criminal trial.

BEFORE THE TRIAL

Diligent investigation and preparation is the key to any successful prosecution in a criminal case. Adequate documentation is essential. **IF IT'S NOT IN THE CASE REPORT, IT DID NOT HAPPEN**. All reports, statements or other evidence in the case should be brought to the attention of the Prosecutor well in advance of trial so that he may adequately comply with discovery orders. The Court may exclude from the trial any evidence when the defendant is not notified before trial of its existence.

You are under no obligation to speak with anyone regarding the case outside the courtroom before trial. Any effort to do so should be reported to the Prosecutor immediately. However, you may be required to give a deposition.

If you have not had previous courtroom experience, make it a point to visit the court and listen to others testify. This is the best way to understand and familiarize yourself with what you will face as a witness without taking the stand yourself.

AT TRIAL

Effective courtroom performance is founded upon experience and diligent preparation. Before taking the stand, you should be thoroughly familiar with all reports prepared by you, and all statements or depositions given by you. Any change in testimony at trial may result in impeachment by defense counsel and points scored by his client.

In the event you do forget, say so, and you will be permitted to refer to your reports to refresh your memory. While you should take your reports with you to the witness stand, keep in mind that a witness who has to fumble through his notes, or read verbatim from a report when asked about important events, is not very forceful or effective.

It is common procedure for the trial court to exclude all witnesses from the courtroom while others are testifying. This is to insure that the testimony of one witness does not influence the testimony of another. Do not discuss the testimony of witnesses who have already testified. Once you have testified you are free to leave the courtroom, or remain in the audience unless otherwise ordered by the Judge or requested by the Prosecutor.

WHEN TESTIFYING

Some suggestions to keep in mind as you prepare for your court appearance as a witness:

(1) Always tell the truth. At trial, as in all other matters, honesty is the best policy. If you tell the truth and tell it accurately, nobody can cross you up. Do not guess or make up an answer. If you do not know the answer it is best to say, "I don't know." If you are asked about details that you do not remember it is best to say, "I don't remember."

(2) Dress neatly and conservatively, and be courteous. The way you dress and present yourself is a direct reflection on you. You want to be sure that your appearance and manner do not distract the judge or jury from careful consideration of your testimony. Police officers should be in uniform, or in at least a sport coat and tie. No tinted glasses or flashy jewelry. A question should be answered, "Yes, sir," or "No, sir," and the judge should be addressed as "Your Honor."

(3) Be attentive. You should remain alert at all times so that you can hear, understand, and give a proper response to each question. If the judge or jury get the impression that you are bored or indifferent, they may tend to disregard your testimony. Use good posture, do not slouch.

(4) Take your time and speak clearly and loudly. Give the question such thought as it requires to understand it. The juror farthest from you should be able to hear distinctly what you have to say. Do not chew gum and keep your hands away from your mouth. Since all testimony is recorded, do not nod your head "yes" or "no".

(5) Be serious in the Courtroom. Avoid joking and wisecracks in the jury's presence. The jury is sitting in judgment of another person whose liberty is at stake. That is always a very serious matter. **BEWARE** of hallway actions and conversations.

(6) Answer all questions directly. Answer only the questions asked, then stop. Avoid "volunteering" information. If you do not understand a question, ask that it be explained. Do not look at the Prosecutor for help while you are testifying and never ask the Judge if you have to answer. This will give the jury the impression that you are holding something back. You are on your own.

(7) Do not lose your temper. Some attorneys may attempt to wear you down so that you will lose your temper and say things that are not correct. Do not fence or argue with the attorneys. They have a right to question you, and many are very expert in this craft.

(8) **BEWARE** of questions involving distance and time. If you make an estimate, make sure that everyone understands that you are estimating. **BEWARE** of questions asking if you are willing to swear to your version of the events. You were "sworn" to tell the truth when you took the stand, do not be afraid of saying so. **BEWARE** of questions asking if you have spoken to the Prosecutor, the witnesses, or other officers. If you have, admit it freely. This preparation before trial is expected in each case. If you are asked if you talked with the Prosecutor about your testimony, admit that you met with him, talked about the case and he instructed you to tell the truth. **BEWARE** of questions asking why you don't like the defendant. You may best respond by stating that you feel sorry for any man in trouble, but you must tell the truth, and if the defendant is guilty, he should be convicted. **BEWARE** of questions asking you if another witness was telling the truth or lying. You can only tell the truth based upon your observations. You have no way of knowing what another person observed, especially when you did not hear that person testify. **BEWARE** of the simple question, "Why are you here today?" You are not here to volunteer information in order to convict. You are not an advocate. You are an unbiased witness. You appeared at trial in response to being served with a subpoena issued by the Court.

(9) Give positive, definite answers when at all possible. Avoid saying, "I think, I believe, In my opinion." A witness testifies to facts, not beliefs or opinions.

(10) No comment should ever be made about polygraphs or the prior criminal record of the defendant unless specifically asked by counsel. If an objection is made while you are testifying, stop and await instructions from the Judge.

(10) Be yourself. Do not use "legalese" or police "lingo" just for the sake of impressing the jury. Saying that "At 2140 hours the perpetrator exited the northeast door of the motor vehicle and started flight with responding officers in pursuit, resulting in apprehension," can be much more effectively stated: "At twenty till ten, the defendant got out of his car from the passenger side and ran, but was chased and caught by other officers."

1. BE PREPARED - KNOW THE CASE

- Know all reports and prior statements
- Know the role of other officers / witnesses
- Review physical evidence; visit scene
- Meet with Prosecutor

2. LOOK GOOD, SOUND GOOD, BE GOOD

- Professional, unbiased, courteous
- Confidence
- If you look and sound like a bad cop, you must be a bad cop

3. BE YOURSELF AND ALWAYS TELL THE TRUTH

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